

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL J. GOODSON, III, <i>et al</i> ,)	
)	
Plaintiffs,)	
)	Civil Action No. 08-44
v.)	
)	
LAWRENCE O. MAGGI, <i>et al.</i> ,)	Judge Gary L. Lancaster
)	Magistrate Judge Lisa Pupo Lenihan
Defendants.)	Re: Doc. No. 253

ORDER

Presently before the Court is the Motion to Strike Plaintiff's Supplemental Complaint filed by Defendants Westmoreland County, Tom Balya, Tom Ceraso and Phil Light, Westmoreland County Commissioners, Mark Gesalman, incorrectly identified as the Controller of Westmoreland County (Doc. No. 253).

On December 21, 2009, the Court issued a Report and Recommendation (Doc. No. 215) recommending that the moving Defendants' Motion to Dismiss be granted with prejudice. On January 12, 2010, United States District Court Judge Gary L. Lancaster adopted the Report and Recommendation and entered an Order granting the moving Defendants' Motion to Dismiss with prejudice. (Doc. Nos. 219 & 220)

Federal Rule of Civil Procedure 15(a)(1)&(2) provides that a party may amend his pleading once as a matter of course within 21 days after serving it, or 21 days after service of a responsive pleading or motion. "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). Here, the Plaintiff did not seek the opposing parties' written consent or leave of court. Moreover, the Court emphasizes that the Amended Complaint against the moving Defendants was dismissed

with prejudice. Further, it appears that the moving Defendants are not named in, nor are claims stated against each of them in the proposed Supplemental Complaint (Doc. No. 244).

AND NOW, on this 25th day of August, 2010, it is hereby **ORDERED** that the Defendants' Motion to Strike Plaintiff's Supplemental Complaint (Doc. No. 253) is **GRANTED**.

s/ Lisa Pupo Lenihan
Judge Lisa Pupo Lenihan
United States Magistrate Judge

cc: All counsel of record
Via electronic mail

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